

**ORIGINAL**Decision No. 55088

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own )  
 motion into the operations, rates, and )  
 practices of JOHN MOROSA, JOSEPH MOROSA, )  
 and MARIANA MOROSA, doing business as )  
 MOROSA BROTHERS TRANSPORTATION. )

Case No. 5902

John Morosa, for respondents.  
Alvin Chanley, for Chanley Bros., interested  
 party.  
William C. Bricca and J. Lane Barbour, for  
 the Commission staff.

O P I N I O N

On February 19, 1957, the Commission issued an order instituting investigation into the operations, rates, and practices of John Morosa, Joseph Morosa and Mariane Morosa, doing business as Morosa Brothers Transportation, for the purpose of determining:

(1) Whether respondents have acted in violation of the Public Utilities Code by charging, demanding, collecting or receiving a lesser compensation for the transportation of property than the applicable charges prescribed in Minimum Rate Tariff No. 3.

(2) Whether respondents have acted in violation of the Public Utilities Code by failing to adhere to other provisions and requirements of Minimum Rate Tariff No. 3 in the transportation of livestock including, but not limited to, Items 115-A, 123-A, 125 and 170-H.

(3) Whether respondents have acted in violation of the Public Utilities Code by failing to adhere to the applicable rates

and charges specified in their tariff schedules filed and in effect at the time including, but not limited to, Items 100-C, 123-A, 165-A, 170-I and Supplement 3 of Southwestern Motor Tariff Bureau, Tariff No. 1, Cal. P.U.C. No. 5, J. L. Beeler, Agent.

(4) Whether any or all of the operating authority of respondents should be canceled, revoked or suspended.

(5) Whether respondents should be ordered to collect from shippers or other persons liable for freight charges, the difference between charges billed or collected and charges due under respondents' tariffs.

(6) Whether respondents should be ordered to cease and desist from any and all unlawful operations or practices.

(7) Whether any other order or orders that may be appropriate should be entered in the lawful exercise of the Commission's jurisdiction.

The order of investigation further alleged that said investigation includes, but is not limited to, the following transportation:

<u>Freight Bill No.</u>	<u>Date</u>
4930	March 20, 1956
4906	February 11, 1956
4280	February 19, 1956
5342	February 29, 1956
3618	March 27, 1956
5386	March 15, 1956
4576	April 2, 1956

A public hearing was held before Examiner Rowe on April 16, 1957, at Bakersfield, at which time evidence was adduced and the matter was duly submitted for decision.

During this hearing the staff presented two witnesses from its Field Section and one from its Rate Section. The results of their investigations were introduced into the record.

The period covered by the investigation included the months of February, March and April, 1956. Respondents' operating authority consists of a certificate of public convenience and necessity issued by Decision No. 44837 dated September 26, 1950, in Application No. 31442. This authority is to transport livestock practically to all points in the State. They issue approximately 220 freight bills per month. The evidence against respondents consists of the seven freight bills above listed and in addition seven more, all covering shipments from the Fletcher Wiley Ranch near Lancaster and destined to the Union Stockyards in Los Angeles, dated in March or April, 1956, and numbered 4360, 4454, 4623, 4374, 4592, 5376 and 5343, respectively.

One of the respondent partners and a member of another certificated carrier firm testified on behalf of respondents. According to the testimony and the admission of the partner of respondent who appeared as a witness, the fourteen freight bills above listed all represent undercharges and we hereby so find. Respondent common carriers are found in the case of the freight movement represented by each of said freight bills to have violated Sections 458 and 494 of the Public Utilities Code by charging and collecting a different and lesser sum for the transportation of property than the applicable rates and charges specified in their tariffs filed with the Commission and in effect at the time of such charge.

Respondents will be directed to cease and desist from the collection of charges not authorized by their effective tariffs.

Respondents' operating authority will be suspended for five days, and respondents will be directed to collect the undercharges above referred to.

O R D E R

The Commission having instituted investigation herein, public hearing having been held and the Commission being fully informed in the premises,

IT IS ORDERED:

(1) That John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, cease and desist from collecting from their shippers rates and charges less than the rates and charges specified in their effective tariffs.

(2) That the operating authority of John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, issued by Decision No. 44837, dated September 26, 1950, in Application No. 31442 and the operating authority under any and all permits issued to them are suspended for a period of five days beginning at 12:01 a.m. on the first Monday following the effective date of this decision.

(3) That all rates and charges filed with the Commission by John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, are hereby suspended for the five-day period beginning on the first Monday following the effective date of this decision.

(4) That John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, shall, not less than five days prior to the beginning of the suspension period, file

suspension supplements to their tariffs on file with the Commission stating that their rates and charges are under suspension so far as they apply to respondents and may not be used by them for the suspension period.

(5) That John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, shall post in their terminals and station facilities, not less than five days prior to the beginning of the suspension period, a notice to the public stating that their operating authority issued by said Decision No. 44837 as well as that issued by any and all permits have been suspended by the Commission for the period of five days as above provided.

(6) That said respondents shall examine their records for the period from February 1, 1956 to the present time for the purpose of ascertaining if any additional undercharges have occurred other than those mentioned in this decision.

(7) That John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, are directed within twenty days after the effective date of this decision to institute and diligently prosecute proceedings to collect any additional undercharge found after the examination required by paragraph (6) of this order and each of the following amounts being undercharges from the following persons:

- a. From W. J. Goodell, \$11.25 on account of Freight Bill No. 4930.
- b. From Walt Goodell, \$10.83 on account of Freight Bill No. 4906.
- c. From Obie Hankins, \$3.09 on account of Freight Bill No. 4280.

- d. From Goldring Packing Co., \$3.37 on account of Freight Bill No. 5342.
- e. From Bryan Meat, \$3.57 on account of Freight Bill No. 3618.
- f. From Cornelius & Burnside, \$9.27 on account of Freight Bill No. 5386.
- g. From Fletcher Wiley Ranch, \$4.39 on account of Freight Bill No. 4576.
- h. Also from Fletcher Wiley, the difference between the amounts collected on Freight Bills Nos. 4360, 4454, 4623, 4374, 4592, 5376 and 5343 and the amounts that should have been collected computed at the rate of 23 cents instead of the 21 cents collected.

(8) That said respondents shall notify the Commission in writing upon the consummation of said collections and in the event that the charges to be collected as provided in paragraph (6) of this order, or any part thereof, remain uncollected eighty days after the effective date of this decision, said John Morosa, Joseph Morosa and Mariana Morosa, doing business as Morosa Brothers Transportation, shall submit to the Commission on Monday of each week a report specifying the action taken to collect said charges and the results of said action, until said charges have been paid in full or until further order of this Commission.

(9) That the Secretary is directed to cause personal service of this decision to be made upon John Morosa, Joseph Morosa

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and Mariana Morosa, doing business as Morosa Brothers Transportation,  
and this decision shall be effective twenty days after the com-  
pletion of said service.

Dated at San Francisco, California, this 11<sup>th</sup> day  
of JUNE, 1957.

*John E. Mitchell*  
President

*Raul Gutierrez*

*Mark Dade*

*R. Hardy*

*C. L. Fox*  
Commissioners